

DEPARTMENT OF PUBLIC SERVICE REGULATION  
BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MONTANA

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INQUIRY INTO MATTERS	)	UTILITY DIVISION
CONCERNING INTERCARRIER	)	
COMPENSATION	)	DOCKET NO. D2004.5.84

**NOVEMBER 17, 2006 WORKSHOP**  
**Comments of the Montana Telecommunications Association**

The Montana Telecommunications Association (MTA) appreciates the opportunity to participate in the Commission's Workshop on the "Missoula Plan" in furtherance of its continued inquiry into matters concerning intercarrier compensation. We commend the Commission for initiating this Workshop specifically addressing comments on the Missoula Plan, and for its previous inquiries into the matter of intercarrier compensation.

**1. Comments on the Missoula Plan filed with the FCC by CTA, MTA and WITA, October 25, 2006.**

**a. Need for Intercarrier Compensation Reform**

MTA jointly filed comments with the FCC on October 25 with the Colorado Telecommunications Association (CTA) and the Washington Independent Telephone Association (WITA) – collectively referred to herein as "the Associations".<sup>1</sup> In summary, the Associations discussed the need for intercarrier compensation reform and focused on the benefits of the Missoula Plan for rural

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<sup>1</sup> *In the Matter of Developing a Unified Intercarrier Compensation Regime* (CC Docket No. 01-92). *The Missoula Plan Intercarrier Compensation Plan* (DA 06-1510). October 25, 2006.

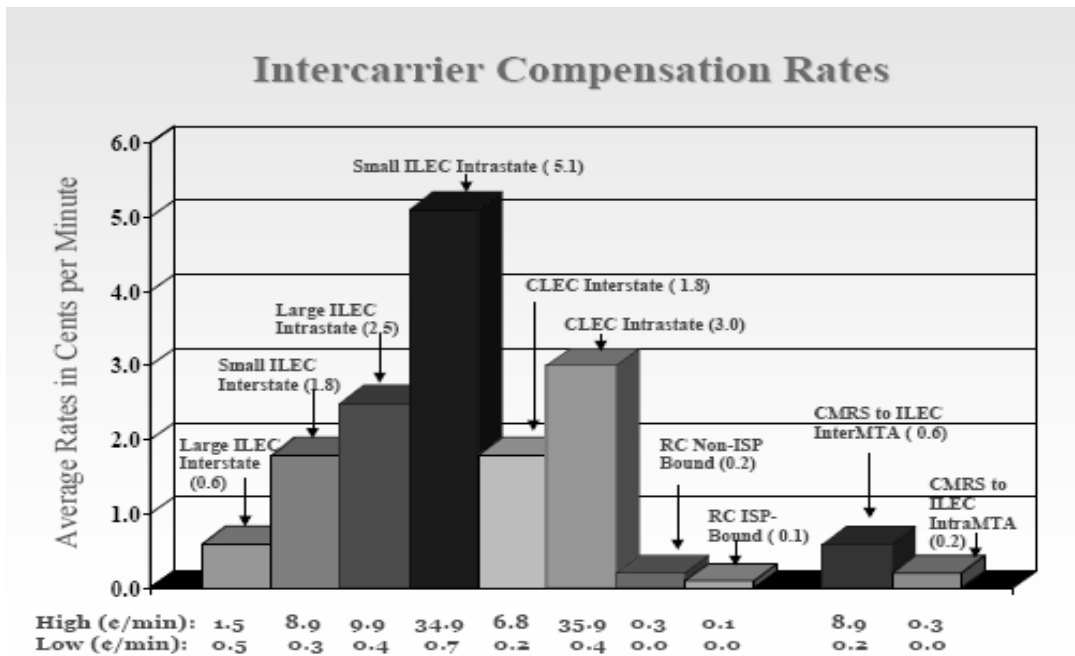
telecommunications carriers under the Plan's Track 3 provisions.<sup>2</sup> The Associations also recommended some areas where the FCC could address concerns expressed by some carriers.

Among the primary reasons for reforming intercarrier compensation now is the mitigation of regulatory arbitrage. Disparities in intercarrier compensation between jurisdiction and technology platforms have made fertile ground for regulatory arbitrage schemes. Differences between interstate and intrastate access rates as well as differences between "local" (subject to reciprocal compensation) and "long distance" (subject to access) rates among different kinds of providers (e.g., wireless, wireline, VOIP, etc.), and a host of other regulatory discrepancies among similar services, have led to an untenable situation which confers regulatory and financial/competitive advantage upon the carrier best able to avoid higher cost intercarrier compensation rates. To the extent that discrepancies in intercarrier compensation rates among similarly situated providers of voice communications can be minimized, incentives for regulatory arbitrage can be reduced, if not eliminated. And, as an added bonus, regulatory parity as well as competitive and technological neutrality can be attained.

The following chart, widely cited in initial comments filed with the FCC, illustrates the current disparities in intercarrier compensation rates.<sup>3</sup>

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<sup>2</sup> The Associations' comments noted that Track 2 carriers such as CenturyTel and Frontier are members of one or more of the three Associations. These carriers to various degrees have concerns about the Missoula Plan and whether there are sufficient benefits for customers in rural company service areas under Track 2. The three Associations noted that these Track 2 carriers would offer their own comments providing greater detail regarding their specific concerns with the Missoula Plan, including for example issues regarding the effect of the Missoula Plan on rural price cap carriers, among other things. The Associations' Comments summarize some Track 2 carrier concerns.



source: Intercarrier Compensation Forum (ICF)

**b. Proposed Alternatives for Intercarrier Compensation Reform Would Harm Rural Network Investment**

The Associations also noted that while reducing the disparity among intercarrier compensation rates is a primary objective of intercarrier compensation reform, proposals to reduce intercarrier compensation to a unified rate of \$0.00, such as a bill and keep mechanism, would spell disaster for rural telecom infrastructure and consumers. The cost of carrier interconnection is substantially greater than zero, particularly in rural areas where the obstacles of distance and density are well known. Equally catastrophic for rural telecom investment is a proposal advanced by Verizon to replace intercarrier compensation with a negotiated agreement “mechanism.” Rural telcos and the markets they serve would be placed at a significant negotiating disadvantage under such a regime.

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<sup>3</sup> See for example “Comments of Supporters of the Missoula Plan.” Page 3.

c. Essential Principles for Inter-carrier Compensation Reform

The Associations commented that the Missoula Plan for Track 3 carriers recognizes certain principles that are essential for rural telecommunications carriers, including:

1. Revisions to the existing inter-carrier compensation framework must recognize distinctions applicable to ILECs subject to rate-of-return regulation;
2. Rural rate-of-return ILECs are entitled to establish cost-based inter-carrier compensation rates that recognize the higher cost of providing service in rural areas and the value other carriers receive when they utilize rural networks to originate and terminate traffic;
3. To the extent that changes in the existing inter-carrier compensation rates are imposed on rural rate-of-return ILECs, these rural carriers must receive recovery of the otherwise displaced interconnection revenue from a new sustainable access element that is only available to carriers that experience such imposed inter-carrier rate reductions;
4. To the extent that changes in the existing interconnection rules are undertaken, those rule changes must reflect the operational and legal realities which limit the obligations of rural ILECs to undertake financial responsibility for the transport of traffic beyond their networks.

By adhering to these principles, the Missoula Plan provides proper incentives for rural companies to continue to invest in their networks.

d. The Missoula Plan Resolves Specific Issues with the Current Inter-carrier Compensation Regime

Further, the Missoula Plan resolves the following specific problems:

1. The Plan defines whether calls are local or subject to intrastate or interstate access based on carrier assignment of telephone numbers. This addresses virtual NXX issues by effectively eliminating the incentive for virtual NXX players to avoid paying for transport associated with

access-related calls. (The Plan's transport rules further reduce VNXX incentives. See below.)

2. The Plan resolves the discrepancy between wireless and wireline "local" calling by fixing the "MTA Rule," referring to calls made within a major trading area (MTA). There are added benefits in the Plan's MTA provisions regarding extended area service (EAS) and local number portability (LNP).

e. Restructure Mechanism Should Be Treated as an Access Mechanism

The Associations also noted that the supporters of the Missoula Plan agreed to disagree with regard to treatment of the Restructure Mechanism (RM). The Associations recommended that the Commission consider the RM as an access mechanism (under §201) and not a universal service mechanism. The displaced intercarrier revenue that becomes part of a new RM is access revenue, and should only be available to carriers that experience the imposed intercarrier compensation rate reduction. To consider such revenue as universal service would mean that access replacement revenue would become portable to wireless eligible telecommunications carriers (ETCs), for example, that experience no access revenue reduction. Since wireless ETCs' rates are not regulated, and they do not charge access charges, a portable RM would constitute (further) windfall to certain wireless ETCs, and place undue additional strain on explicit funding resources.

f. Areas for Improvement

The Associations encouraged the FCC to address concerns raised by Track 2 carriers and other members of the Associations. Areas of concern discussed include:

1. treatment of rate of return Track 2 carriers in rural areas;<sup>4</sup>
2. transition rules;
3. the extent of cost shifted onto consumers through the imposition of end user charges such as the RM and additional subscriber line charges; and
4. the lack of provision for carriers that have already undergone rate rebalancing.

**2. Specific Comments on Issues Including Legal Issues, Rates, Effects on Rural and Urban Customers and Carriers; and other Issues (e.g., competitive neutrality, etc.)**

**a. Legal Considerations**

The Comments of Supporters of the Missoula Plan address in detail legal issues involving adoption of the Missoula Plan.<sup>5</sup>

**b. Rate Considerations**

For Track 3 carriers, intrastate access charges are reduced to interstate levels over four years. By preserving cost-based access charges for Track 3 carriers, and moving recovery of displaced access revenues to a sustainable Restructure Mechanism, the Missoula Plan preserves the revenue contribution that intercarrier charges make to affordable, quality telecommunications service in high-cost rural areas. In the absence of intercarrier compensation, end user rates would need to increase; or universal service funding would have to

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<sup>4</sup> See Comments of the Supporters of the Missoula Plan. Certain rural carriers operating under interstate price cap regulation and meeting other criteria would remain under Track 2, while clarifications provide that certain formerly Track 2 carriers operating under interstate rate of return regulation would be treated as Track 3 carriers. Id. Appendix A, Clarifications and Revisions to the Missoula Plan. Page 2. MTA notes that this clarification resolves some Track 2 concerns, but the combined effect of reducing intrastate access rates to a unified interstate rate on Track 2 carriers subject to price cap regulation results in insufficient recovery of investment. Certain Track 2 carriers assert that their rural study areas should receive the same treatment as other rural carriers (e.g., Comments of Frontier Communications, FCC CC Docket No. 01-92, October 25, 2006. pp 9-10; or Comments of CenturyTel at pp 16-17.)

<sup>5</sup> Comments of Supporters of the Missoula Plan. Id., pp. 14-20.

increase; and continued investment in rural telecommunications infrastructure would become tenuous.

c. Other Issues

As noted earlier in the summary of comments filed by the Associations, the Missoula Plan clarifies the classification of local, intrastate and interstate calls based on carrier assignment of telephone numbers. Further, the Plan's transport rules define carriers' obligations to pay for transport beyond their networks. If adopted, the Plan would provide significant clarity and relief to rural carriers currently burdened with inappropriate and exorbitant transport obligations.

In addition, also noted above, the Missoula Plan provides an effective remedy to the discriminatory effects of the intra-major trading area rule ("MTA Rule"). Currently, wireless and wireline calls within a major trading area are treated (charged) differently. The same people can have the same conversation in the same locations, but their conversation can be subject to different costs merely because of the phones they use. This is blatantly anticompetitive, and most certainly not an example of regulatory or technological neutrality. The Missoula Plan would remedy this regulatory imbalance by determining the nature of the call (local or access) according the rate centers of the calling and called numbers.

**3. How the Missoula Plan May Cause Changes in Federal Universal Service Funding**

The effect of the Missoula Plan on the Federal Universal Service Fund is estimated to be \$525 million, which comprises LifeLine increases of \$225M so that LifeLine customers do not experience SLC increases, and \$300M for the re-initialization of the High Cost Loop fund.<sup>6</sup>

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<sup>6</sup> The total effect of the Missoula plan on explicit funding resources is approximately \$2.25 billion, according to the Missoula Group.

#### **4. Recommendations Regarding Reply Comments that the MTPSC Might File with the FCC and Implementation of Inter-carrier Compensation Reform at the State Level.**

MTA recommends that the Commission recognize the extraordinary effort of the Missoula Plan's drafters to develop a comprehensive inter-carrier compensation reform package. The Plan embraces compromises from all sectors of the telecommunications industry and as such is not perfect from any sector's perspective. However, as noted by supporters and opponents alike, the Plan incorporates several significant provisions designed specifically to address the extraordinary challenges that rural telecom providers face.

MTA further recommends that this Commission encourage the FCC to use the Missoula Plan as the foundation for its consideration of inter-carrier compensation reform, while urging the FCC to address the concerns that have been raised by various carriers as constructive contributions to the Plan's goal of attaining needed comprehensive inter-carrier compensation reform.

#### **5. Conclusion**

As noted above, doing nothing is not a good option. Inter-carrier compensation needs to be rationalized to minimize regulatory arbitrage and to facilitate competitive and technological neutrality. Continued investment in advanced rural telecommunications infrastructure is vital for rural economic development opportunity and national competitiveness, and inter-carrier compensation is an integral component to rural investment recovery. As pointed out frequently, other competitive telecommunications services depend on an advanced, quality, reliable telecommunications infrastructure.

By seeking to stabilize today's inter-carrier compensation regime, the Missoula Plan aims to ensure that investment in rural networks can continue to bring advanced telecommunications capabilities to rural consumers. MTA recommends that the Montana Public Service Commission encourage the FCC to use the Missoula as its basis for inter-carrier compensation reform and to adopt



appropriate improvements to the Missoula Plan that can be realized, as noted in these comments.

Respectfully Submitted,

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